

Remarks/Arguments

Reconsideration of this application is requested. Entry of the above amendments are requested in order to put the application in condition for allowance or in better condition for appeal.

Telephonic Interview

Mary Bongiorno and John Rabasco wish to thank the Examiner for granting a telephonic interview on November 21, 2003. The rejections in the final office action were discussed. Agreement was reached on amendments to overcome the 112 rejections, and Umemura was removed as a reference for the 102(b) rejection.

Priority

The final rejection contained a reminder that benefit claims under 35 USC 120, 121, or 365(c) should include the status of application or patent.

The specification has been amended at page 1, lines 3-4, to indicate that Serial No. 09/656,318 has been abandoned.

Rejection under 35 USC 112, 1st paragraph

Claims 23-30 were rejected under 35 USC 112, 1st paragraph, as failing to comply with the written description requirement. It was argued that there was no showing of an effective biocide at the 500 ppm level.

Response to 112, 1st paragraph, rejection

As the Examiner indicated, there was no recitation of 500 ppm as a specific level of cationic compound and the examples did not show using an effective cationic biocide at 500 ppm. Lacking a specific recitation of 500 ppm of the cationic compounds and/or an example in which the cationic compound was shown to be effective at 500 ppm, claim 23 has been amended to recite 400 ppm as the upper limit for the amount of cationic compound. The lower limit of 10 ppm has support in the specification at page 9, lines 8-10. Based on the amendment, the above remarks, and agreement during the interview, withdrawal of the 112, 1st paragraph, rejection is requested.

Rejection under 35 USC 112, 2nd paragraph

Claims 1-18 and 21-22 were rejected under 35 USC 112, 2nd paragraph, as failing to comply with the written description requirement. It was argued that there is no mention of a "cationic compound in an amount effective for preventing biodeteriogenic microbe contamination."

Response to 112, 2nd paragraph

It was pointed out in the interview that original claim 10 had the wording "an effective amount" in it. The Examiner requested that the phrase "for preventing biodeteriogenic microbe contamination" be inserted after "effective amount" in claim 10, and that the specification be amended to insert the same phrase.

Claim 10 has been amended as requested and the specification has been amended at the paragraph beginning at line 4 of page 6 to insert wording that agrees with original claim 10.

Based on the above remarks and amendments it is believed that the 112, 2nd paragraph, rejection has been overcome, and the rejection should be withdrawn.

Rejection under 35 USC 102(b)

Claims 1, 6, 10, 15 and 21 were rejected under 35 USC 102(b) as being anticipated by Umemura et al. (US 4,902,503). Umemura et al. was cited as disclosing a cationic latex and a silver compound, a protective colloid, and other latices and adhesives.

Response to 102 rejection

Umemura et al. disclose the use of protein silver as an antimicrobial agent. The protein silver is blended with the latex. As pointed during the interview, Umemura et al. do not disclose or suggest a polymer emulsion containing little or no nonionic or anionic surfactants and little or no anionic substituents. The Examiner agreed to withdraw the reference and rejection.

Allowable Subject Matter

Claims 19 and 20 were objected as being dependent on a rejected base claim, but would be allowable if rewritten in independent form and including all of the limitations of the base claim and intervening claims.

Since the base claim (claim 10) has been amended to overcome all rejections, the requirement to amend claims 19 and 20 should not be maintained.

Additional references

During the interview, the Examiner indicated that there were additional references that he might cite against the claims in this case. The references are US 4,655,957; US 5,125,967; US 5,583,091; US 5,879,663; US 6,017,661; and US 6,149,927.

Applicants believe that none of the above additional references render the current claims unpatentable.

In view of the amendments and arguments made herein, it is believed that the application is in condition for allowance and should be passed to issue.

Respectfully submitted,

A handwritten signature in cursive script that reads "Mary E. Bongiorno".

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